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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/925,149

Applicant(s)

MANOJ

Examiner

Joseph A. Fischetti

Art Unit

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NY

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-16, 25 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8,26 drawn to a method of generating an order plan, classified in class 705, subclass 28.
- II. Claims 9-16,25 drawn to system of generating an order plan, classified in class 709, subclass 238.
- III. Claims 17-24, drawn to logic of generating an order plan, classified in class 717, subclass 168.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Atty. Kennerly on 4/28/04 a provisional election was made with traverse to prosecute the invention of Group III, claims 17-24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-16, 24, 25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milne et al.

Kennedy et al disclose access data describing a plurality of priority levels, each priority level comprising at least one item request (read as the criteria col. 5 lines 36-66 and cols. 7-8 items 1-4. Kennedy et al. disclose a downstream planning logic which for each priority level and for each item request of a priority level as follows: Kennedy et al. in col. 7 lines 6-20 discloses planning an order for an item request of a current priority level according to a plurality of recorded unplannable network components (read as those others than those one or two in group 2, an unplannable network component being unable to satisfy an item request (read as the unplannable material availability network component). Kennedy disclose determining that those in Group 1 will be served and which in group 2 should be made late based upon "due date"; this is read as providing an order plan comprising the orders planned for the item requests at each priority level.

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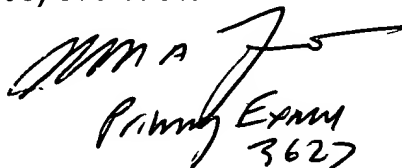
However, Kennedy appears to be silent regarding access data describing a supply chain network comprising a plurality of network components, each network component operable to supply one or more items to satisfy an item request. However, Milne et al disclose plural network components (all manufacturer entities) which are operable to supply one or more items to satisfy an item request, namely parts A,B,C It would be obvious to modify Kennedy et al. to include the plural network components the motivation being the better understanding of manufacture problems downstream before they manifest. The steps of validating and recording the validated the unplannable network components for the current priority level is deemed an old and notorious step and official notice is hereby taken thereof lending no patentable weight to the claims.;

Re claims 18 and 21,23, 24: see Kennedy col. 3 line 5 for buffer usage, notwithstanding the use of a buffer is deemed as an old and notorious expedient of the art.

Re claims 19, 20, and 22: Kennedy disclose determining that those in Group 1 will be served and which in group 2 should be made late based upon "due date" is read as an operation and the failure to provide material is read as the an infeasible period and the this determination is read as one of capacity.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.


Primary Examiner
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